

Level III

Guidelines

September 9, 1999

DRAFT (Rev. 1)

Guidelines

Applicable Requirements

Introduction

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What are Applicable Requirements?

Applicable requirements are all of the Clean Air Act requirements for a title V source. A title V permit must assure compliance with all applicable requirements. Common sources of applicable requirements are:

The state implementation plan (SIP)

SIP-approved permits previously issued to the source

Standards promulgated by EPA, e.g.,

- New Source Performance Standards (NSPS, including NSPS general provisions)
- National Emissions Standards for Hazardous Air Pollutants (NESHAPs, including MACT standards, and general provisions for these)
- Title IV (Acid Rain) requirements, and Title VI (Stratospheric Ozone) requirements

The next five sections of these guidelines provide more information on reviewing specific applicable requirements in permits.

CAA 504(a) requires each title V permit to “assure compliance with applicable requirements of this chapter [Clean Air Act], including the requirements of the applicable implementation plan [SIP].” 40 CFR 70.2 gives a complete definition of applicable requirements that must be included in a title V permit.

Why Review the Applicable Requirements?

A major **benefit** of a title V permit is that it combines into a **single document** all of a source’s Clean Air Act requirements in order to eliminate confusion for the source, the public, the local permitting authority, and EPA as to what requirements apply. This benefit is achieved if:

- **the permit does not incorrectly exclude any Clean Air Act requirements of a source.** While it may seem straightforward to determine which requirements apply to a source, the ongoing revisions to SIPs and implementation of new and revised federal standards such as NSPS and MACT require careful evaluation.
- **the permit correctly and completely captures all applicable requirements.** When a requirement is transferred into the title V permit, even small changes to the words can have an effect on the meaning or stringency of a requirement. In addition to including emission limits, the permit should also include any monitoring, record keeping, reporting, and work practice standards associated with a requirement.

What Other Terms Relate to “Applicable Requirements”?

“*State-Only Requirements*”: You will find certain title V permit conditions marked as “State-Only” or some other designation indicating the condition is not federally enforceable. Provisions for these types of conditions are specified under §70.6(b)(2):

“...the permitting authority shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements.”

The universe of applicable requirements includes all federally-enforceable requirements, so a permit term can be “State-only” only if it is not defined as an applicable requirement under 70.2. “State-only” requirements are usually requirements from local rules that have not been incorporated into the SIP. If you come across permit conditions designated as “State-Only,”

- Confirm that the condition is not federally enforceable. The NSR Permit Terms and Conditions section of these guidelines gives more information on what previously existing permit conditions are considered federally enforceable.

If the condition is eligible for State-Only status, *it does not need to meet the part 70 requirements (e.g., periodic monitoring requirements) with a few exceptions.* These exceptions are

- If the condition is being used to meet a federal requirement (see the Streamlining section in these guidelines) or to exempt a source from a federal requirement (see the section of these guidelines on Alternative Operating Scenarios and Emissions Trading Provisions)
- If the condition will automatically become federally enforceable during the permit term (see discussion of sunset/sunrise clauses in the section on SIP guidelines.)

“*Future Effective Requirements*”: The definition of “applicable requirement” includes the language “including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates.” Since all applicable requirements must be included in the title V permit, make sure that all future effective requirements are included.

“*Generally-Applicable Requirements*”: This term is not used in part 70, but is used in the White Papers 1 and 2. Page 9 of White Paper 1 describes these as broadly applicable requirements usually from SIPs, and says “Examples...include requirements that apply identically to all emissions units at a facility (e.g., source-wide opacity limits), general housekeeping requirements, and requirements that apply identical emissions limits to small units (e.g., process weight requirements).” For more information on how these requirements may be treated in the title V permit, see “Level of Detail” and also Page 9 of White Paper 1 in Appendix A. The term “*unit-specific requirements*” is not from part 70 but is used as the opposite of “Generally Applicable Requirements.” The term refers to requirements that either apply only to specific units, or where unit-specific information is needed to determine applicability.

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Applicable Requirements:

State Implementation Plan (SIP)

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How Do I Check for SIP Rules in a Permit?

What Are They? SIP Rules are rules contained in the State Implementation Plan that were submitted by a permitting authority and approved by EPA as required under the Clean Air Act. These rules may apply to specific sources, source categories, or on a pollutant-specific basis. The approval of rules into the SIP by EPA is an ongoing process.

Pursuant to the definition of “applicable requirement” in Part 70, a permit must contain “...any standard or other requirement provided for in the applicable implementation plan [SIP] approved or promulgated by EPA...” When reviewing a permit to check for SIP rules, follow these steps:

1. Scan the table of contents of the approved SIP and identify all rules which are potentially related to the source.
2. Turn to the text of each rule identified as potentially related to determine if it is applicable to the source based on source size, fuel type, source construction or modification dates, or other criteria given in the rule. (Refer to the statement of basis for the permit to obtain the specifications of this source, or ask the permitting authority for more information as necessary.)
3. Verify that the rule was correctly incorporated into the permit (see tips below).

What is the “SIP gap” ? As permitting authorities submit rules for inclusion in the SIP, EPA must review and approve or disapprove each submitted rule based on whether it meets certain Clean Air Act requirements. Rules that have been adopted locally and submitted to EPA but not yet approved into the SIP (or disapproved) by EPA are said to make up the “SIP gap.” The term “SIP gap” is used because there is a difference (gap) between the rules that have been approved into the SIP and the rules that are being implemented locally (i.e. “local rules”).

How does the “SIP gap” affect permit review? Local rules (including those in the “SIP gap”) are not applicable requirements under Part 70 and are not required to be in title V permits, although many permitting authorities choose to include local rules in title V permits. Local rules become federally enforceable upon approval into the SIP by EPA. A title V permit must assure compliance with all rules approved into the SIP by either including the SIP rule, or by including a local rule in the permit with a streamlining demonstration that the local rule assures compliance with the SIP rule (see tips below). A local rule may be included without a streamlining demonstration if EPA has made a written determination that the local rule is more stringent than the SIP rule. Copies of these stringency letters are located in the title V program binders.

Tips for Review of SIP Requirements

Issue	Explanation	What to Look For
Incorporation by reference/Level of detail included in the permit from the SIP rule	It may be helpful to incorporate lengthy portions of SIP rules by reference. See the guidelines on incorporation by reference.	Check that the permit contains the source's emission limits, and that a source's compliance obligations are clear.
Streamlining SIP rules with local rules	Permits can be issued based on local rules provided that the permit still assures compliance with the SIP approved rules through a proper streamlining demonstration (see page 20 of White Paper #2 and the streamlining section of this guidance for more information). A local rule may be included without a streamlining demonstration if EPA has made a written determination that the local rule is more stringent than the SIP rule. Copies of these stringency letters are located in the title V program binders.	<p>If the permit contains streamlining of SIP rules with local rules, check to make sure:</p> <ul style="list-style-type: none"> - a demonstration is given that describes any differences, including monitoring requirements, between the SIP rule and the local rule, and - a local rule that subsumes a SIP requirement is marked federally enforceable, as described on page 11 of White Paper #2.
<p>Sunset/sunrise clauses for SIP rules that are about to be replaced through EPA approval of a local rule into the SIP</p> <p>(Note that a permit must be reopened to incorporate new applicable requirements if there are more than three years remaining in the title V permit term, pursuant to Part 70.7(f))</p>	<p>A permit may contain a "sunrise" clause that makes a condition originating in a local-only rule federally enforceable upon EPA approval of the rule into the SIP. Similarly, the "sunrise" clause may be accompanied by a "sunset" clause that makes the permit term based on the superseded SIP rule void once the SIP revision is approved (see page 11 of White Paper #1).</p>	<p>For local-only conditions that will become federally enforceable : The permit must assure compliance with the new SIP rules. Thus, review the conditions in detail as if they were currently federally enforceable. Assuring compliance includes periodic monitoring, recordkeeping and reporting, etc.</p> <p>For conditions from SIP rules that will be superseded: Check that the permit language does not allow the condition from the SIP rule to become non-federally enforceable until the SIP revision is approved by EPA.</p>

Tips for Review of SIP Requirements

Issue	Explanation	What to Look For
Use of alternative test methods not approved into the SIP	Alternative test methods must be pre-approved by EPA through the appropriate process, e.g. SIP revisions. Alternative test methods may not be approved through the title V Permit issuance process.	<p>Make sure any test methods required by the permit are either:</p> <ul style="list-style-type: none"> • approved into the SIP, or • EPA reference test methods <p>Note that permit language allowing an “alternate and equivalent test method” should be corrected to allow only an “alternate and equivalent test method approved by EPA.”</p>
Use of generic grouping of emissions units	White Paper I allows for the generic grouping of emission units (see pp 9 and 10) provided (1) the class of activities or emissions units subject to the (generic) requirement can be unambiguously defined in a generic manner and where (2) effective enforceability of that requirement does not require a specific listing of subject units or activities.	Look for permit terms that generically group emission units (e.g., baghouses subject to the same grain loading rule). Are the activities unambiguously defined in a generic manner and does enforceability of that requirement require a specific listing? Be aware that this can apply regardless of the size of the unit

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Applicable Requirements:

NSPS and NESHAP

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How Do I Review the Permit for NSPS and NESHAP Requirements?

The requirements in each subpart can be lengthy and complex but there are some key guidelines to follow when reviewing permits for sources that may be subject to any of the requirements:

Determine whether any of the standards apply

- Check permit application and/or permit to identify what type of emission units are located at the facility and whether the source emits any pollutants regulated by the standard(s) (e.g., list of hazardous air pollutants is found in CAA §112(b)).
- Applicability criteria are listed in the first section of each standard (e.g., 60.40 for Subpart D facilities) and some key definitions are listed in the general provisions sections.
- Information provided in the permit or in the supporting documentation should include:
 - maximum size and type of emissions unit (e.g., 250 MMBTU/hr boiler);
 - fuel type (e.g., natural gas);
 - the date unit was constructed and whether any modifications have occurred, (if the source is claiming an exemption based on the construction date).
- Permits may include requirements that limit the potential to emit of the source to avoid an applicable requirement. The permit conditions establishing these limits must be enforceable as a practical matter and establish clear compliance requirements.

Are the emissions limits included in the permit? Part 70 and clarifying language in White Paper II require permits to include limits.

Are all other applicable requirements of the standard in the permit, including an adequate level of detail to ensure the source's compliance obligations are clear? Incorporation by reference is okay as long as the referenced material is clear and available to the public.

What Are They? NSPS (Part 60), pre-1990 NESHAPs (Part 61) and post-1990 NESHAPs (also known as MACT-standards -- at Part 63) are separate applicable requirements that, in general, apply to a variety of specific **emission units** or **processes** located at stationary sources. Each standard contains a general provisions section (subpart A) in addition to numerous subparts that describe the requirements with which the affected source owner must comply.

Guidelines: Applicable Requirements: NSPS and NESHAP

Table 1 - Summary of NSPS and NESHAP Requirements^b

Standard	Size and Type of Unit, Process or Facility	Applicability Criteria	Pollutants Regulated
NSPS -- New Source Performance Standards (40 CFR Part 60)	In general, standards focus on emission units or processes that are called “affected” facilities. The affected facility may be located at either a major or a minor ^a source. Once a unit becomes an affected facility, it cannot avoid the standards by limiting emissions as a synthetic minor.	NSPS standards apply to the “affected facility.” An emission unit (or facility) becomes an affected facility if after the standard’s effective date either: <ul style="list-style-type: none"> the facility commences construction on a new emissions unit and the unit becomes an affected facility; or, an existing facility: <ul style="list-style-type: none"> undergoes a “modification” as defined in §60.14; or is reconstructed as defined in §60.15. 	In general, the standards regulate criteria pollutants. Some standards may regulate non-criteria pollutants (e.g., H ₂ S). Check the specifics within each standard.
pre-1990 NESHAP – National Emissions Standard for Hazardous Air Pollutants (40 CFR Part 61).	Standards focus on sources that emit certain levels of specific hazardous air pollutants. Standard could apply to either area ^a sources or major sources.	Applies to both new and modified sources. Upon modification (§61.15), any existing source shall become a new source for each HAP for which the rate of emissions increase.	Focus on specific HAPs (pre-1990) list identified in §61.01. Not aimed at controlling criteria pollutants.
Post-1990 NESHAP also known as MACT (Maximum Achievable Control Technology) Standards (40 CFR Part 63)	In general, standards focus on emission units or processes that are called “affected” facilities. Most standards affect major HAP sources: 25 tpy for combined HAPs or 10 tpy for any single HAP. Several standards established for stationary sources that are considered area sources (e.g., batch degreasers).	Applies to existing, new and reconstructed major HAP “affected sources” as defined in §63.2. Each standard defines affected source as it relates to the specific standard. Even though five area sources have been deferred from the requirement to obtain a title V permit until at least 12/9/1999, area source emission units (e.g., degreaser) may be located at title V facility and the post-1990 NESHAP requirements would need to be included in the title V permit.	Focus on specific HAPs (post-1990) list identified in §112(b). List includes pre-1990 NESHAPs. Not aimed at controlling criteria pollutants.

^aMost CAA requirements for criteria pollutants refer to non-major sources as “minor” sources. Post -1990 §112 standards define non-major sources as “area sources.”

^bThe standards apply regardless of the attainment status where the source is located.

How Can I Determine if a NSPS Applies?

1. Know your definitions:

Existing Facility (§ 60.2): means any apparatus of the type for which a standard is promulgated in this part, and the construction of which commenced *before* the date of the proposal of that standard.

Affected Facility (§ 60.2): means, with reference to a stationary source, any apparatus to which a standard applies.

Modification (§ 60.2 and § 60.14): means any physical change in, or change in the method of operation of, an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies.

An existing facility, upon modification, becomes an affected facility *if there is an emissions increase*.

Reconstruction (§ 60.15): means the replacement of components of an existing facility (i.e., a facility that was constructed prior to the effective date of the subpart), to such an extent that:

- the fixed capital costs for the replacement of components exceed 50% of the fixed capital costs that would be required to construct a comparable entirely new facility; and
- it is technically feasible to meet the applicable NSPS standards

An existing facility, upon reconstruction, becomes an affected facility subject to NSPS *irrespective of any change in emissions rate*.

2. In addition to the above definitions, be aware of the following information and questions that could be helpful in making an NSPS applicability determination:

- Know your dates. Each subpart will have an effective date. Did the source commence construction, reconstruct or modify after the effective date?
- Has the source requested a shield from a NSPS standard based on a determination that the NSPS does not apply? If so, then check whether construction dates are included, and if they provided information on other applicability criteria (e.g., the size and type of the equipment).
- For reconstruction evaluations, cost information may be obtained from the source.
- Have there been any physical changes at the source that have resulted in an emissions increase at the source?

In summary, there are several ways an emissions unit can be an **affected facility** subject to an NSPS:

1. It is subject because it meets all the applicability criteria (size, type of fuel, commenced construction after effective date) in the NSPS standard.
2. It was an “existing facility” that undergoes a **reconstruction**.
3. It is an “existing facility” that undergoes a **modification**.

Part I -- Tips For Reviewing NSPS Requirements	
Does the Permit...	What to Look For
...correctly include all NSPS requirements in the title V permit?	The general requirements (notification and recordkeeping requirements in 60.7)' of the NSPS can be incorporated by reference (IBR) into title V permits. After the emission limits for source specific emission units are listed in the permit, compliance requirements can be IBR provided the compliance requirements are clear.
...provide enough information (in statement of basis or other supporting documentation) to justify this applicability determination? For example, if a process unit in an NSPS industrial category has been determined not to be a subject facility, does source provide information?	You can't shield NSPS unless statement of basis shows why the requirements are not applicable and that no modifications/reconstructions have occurred. To determine applicability, look for maximum capacity of the process unit and date of construction or modification of the process unit. Also check the review report for any descriptions that might indicate modifications. Shield should state the source has not modified as defined in §60.14.
...address whether past modifications have triggered NSPS requirements? For example, if unit claims exemption and was constructed before the applicability date, but the permit notes that it has been since modified or reconstructed, does the modification meet the definition in §60.14 or the definition of reconstruction in §60.15?	It's helpful if the statement of basis includes information provided by the company such as "the unit was constructed in 1968 and has not been modified since." Significant data will be required to determine if definitions in §60.14 or §60.15 have been met.
...state that the initial source test requirement has been fulfilled? (The statement of basis should document that this has been addressed.)	Each facility subject to NSPS must be tested within 60 days of achieving the maximum production rate but no later than 180 days after startup. The owner or operator must give EPA advance notice of the test, and provide EPA a written test report (§ 60.8). Appropriate test methods and other related specifics are given in each subpart. The test methods themselves are provided in Appendix A of 40 CFR 60. Most NSPS facilities in the title V process should already have fulfilled this requirement. If initial test has not yet been performed, source must include a compliance schedule in the permit for such tests.

Part I -- Tips For Reviewing NSPS Requirements	
Does the Permit...	What to Look For
...include correct emission limits and averaging times for each pollutant for which there is an NSPS standard? Or, are appropriate design and maintenance requirements included (e.g., requirement to install floating roof)?	In some cases, this is complicated, as the limit can depend upon the type of fuels or process, etc. Sometimes the permit does not include enough detail to calculate a limit as a check against the permit limit. When this happens, you must decide if it's worth the extra time to call the permit writer, get the details, and re-do the calculation performed by the permit writer.
...include all the correct monitoring requirements? For example, do equipment-based and work practice standards (e.g., an internal floating roof) have NSPS regulatory installation, maintenance monitoring, and reporting requirements to assure emission reductions?	<p>Most subparts should have compliance standards, but some older standards, e.g., Part 60 subpart K, may need gapfilling. Look to more recent subparts of the same source category for other ideas. Types of monitoring for NSPS sources include:</p> <p>(I) the installation, certification and operation of a CEMS or COMS or other "process" CMS (e.g. pressure drop or temperature). Performance specifications of monitors or a specified accuracy for process-CMS should reference Appendix B. Some NSPS subparts provide that CEMS data will be used for <i>determining</i> compliance, as opposed to <i>indicating</i> compliance. For direct-compliance monitors, Appendix F, which contains CEMS quality assurance requirements, also applies and should be referenced in the permit. Authority behind monitoring requirements can be found both in the individual subparts and in §60.13.</p> <p>(ii) Technology-based standards rely heavily on routine inspection of installed emission control equipment; inspections are important to assure proper maintenance and operation of equipment.</p> <p>(iii) Some work practice regulations (e.g. leak detection and repair) rely exclusively on thorough monitoring to achieve emission reduction.</p> <p>(iv) Federal standards proposed after 1990 are presumed to have adequate monitoring to satisfy Part 70's periodic monitoring requirement.</p>

Part I -- Tips For Reviewing NSPS Requirements	
Does the Permit...	What to Look For
<p>...include Recordkeeping and Reporting requirements that match what NSPS requires? (Records kept depend upon applicable subpart).</p>	<p>(I) Although each subpart contains specific reporting requirements, §60.7 also provides authority for reporting requirements. For example, the excess emission summary reports described by §60.7© should be included where applicable, and the permit should state reporting frequency (depends upon the subpart.)</p> <p>(ii) Excess emission reporting as specified in the applicable subpart can be quarterly, semi-annual, or initially quarterly with a subsequent semi-annual option for facilities without exceedances. Instead of reporting excess emissions, some facilities must report deviations from the parameters they are required to monitor. Other reporting requirements include notification of construction, anticipated startup, actual startup, and source testing. Most often, the source has already fulfilled these requirements.</p> <p>(iii) Since Part 60 references subpart A, it should be incorporated by reference into the permit.</p> <p>(iv) NSPS requirements should not be shielded unless the statement of basis has addressed why the facility is not subject to NSPS.</p>

Part II -- Tips For Reviewing NESHAP Requirements	
Does the Permit...	What to Look For
...include all NESHAP requirements?	<p>The permit must contain an adequate level of detail for requirements to ensure the compliance obligations of the source are clear. Issues to watch for:</p> <ol style="list-style-type: none"> 1. Does standard allow multiple compliance options? If so, make sure the options are clearly identified in the permit. 2. What level of detail is contained in the permit? Does the permit list each subject emission unit and its compliance obligation? 3. Are the General Provisions portion of the standard included in the permit? Part 70 permits may include reference to the general provisions portion of Part 61 or Part 63. 4. Does the permit include statements that allow the APCO or the Director to approve alternative standards or compliance mechanisms where no authority (vis-a-vis delegation) has been granted? (See list of authorities that cannot be delegated, p. III-16) <p>See level of detail for more information and Enclosure B of the EPA letter to ST APPA (Attachment G).</p>
...or supporting documentation provide enough information to justify exemption from standards that otherwise would apply? For example, if a process unit is a NESHAP affected source, but has been determined to be exempt from certain standards or requirements, the source must justify the exemption.	Much like the NSPS applicability requirements above, the NESHAP requirements must include details in the summary report or statement of basis describing the non-applicability of a NESHAP.
...include correct emission limits and averaging times for each pollutant for which there is a NESHAP standard? Or, are appropriate design and maintenance requirements included?	Emission limits must be included for each subject emission unit. Permit conditions must also clearly identify the compliance obligations of the source. Cross-referencing is allowed if the material referenced is available to the public and the information is unambiguous.
...include correct NESHAP monitoring, recordkeeping and reporting requirements for both the proper subpart and the general requirements?	Many of the NESHAP requirements contain multiple compliance options. The permit must clearly state which options the source will follow. The source may choose to include various compliance options as alternative operating scenarios.
...incorporate NESHAP startup shutdown and malfunction plans by reference? (§63.6(e)(3)(I)) Further, does the permit require sources to develop and implement SSM plans consistent with 63.6(e)(3)(I)?	General Provisions Section 63.6(e)(3)(I) allows the startup shutdown and malfunction plans to be incorporated by reference in the title V permit. Does the permit include such a reference? Be aware that this general provision may be over-ridden by a specific NESHAP requirement that requires more detail in the title V permit. If more detail is required by a specific NESHAP, does the permit contain sufficient detail? (see practical enforceability guidelines).

Part II -- Tips For Reviewing NESHAP Requirements	
Does the Permit...	What to Look For
...include reference to subpart A; is it incorporated by reference into the permit?	All permits that rely on Subpart A should, at minimum, incorporate it by reference.
...include a NESHAP for which there is a future effective date?	The title V permit must include any NESHAP that has been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates (see definition of “applicable requirement” at §70.2). Resource: Check the most recent NESHAP information (EPA Website is a good place to look) to find which standards have been promulgated at the time of your permit review.

**Questions related to NESHAP and Level of Detail
from Enclosure B of May 20, 1999 letter to
STAPPA/ALAPCO (see Attachment G):**

GENERAL

- 1. Retrospective application of 112(g)**
- 2. Issuance of the permit before MACT compliance details are available**
- 3. Changes in the selected compliance option**
- 4. “Once-In-Always-In” and pollution prevention**

LEVEL OF DETAIL FOR POINT SOURCES

- 5. Use of generic groups that do not identify specific emission units**
- 6. Incorporation of multiple compliance options into Title V permits**
- 7. Level of Detail Needed to Incorporate General Provisions into Permits**
- 8. Level of Detail Needed to Incorporate MACT Standards into Permits**

LEVEL OF DETAIL FOR NON-POINT SOURCES

- 9. Identification of wastewater streams subject to MACT in the Title V permit**
 - 10. Specification of requirements for fugitive and wastewater sources**
 - 11. Specification of operating parameters in the permit**
 - 12. Incorporation of startup, shutdown, and malfunction plans, operating and maintenance plans, and periodic reports in Title V permits**
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Toxics New Source Review (Section 112(g)) and Title V

Section 112(g) of the CAA applies to major new or reconstructed sources of HAP if a MACT standard has not yet been promulgated for the applicable source category. Where a MACT standard has not yet been promulgated for that new source, 112(g) requires that a source propose, receive approval for, and install MACT. Unless specifically exempted, all owners or operators of major HAP sources constructing or reconstructing after June 29, 1998 must comply with this requirement.

EPA Review of 112(g) MACT Determinations

EPA's role in reviewing and approving the case-by-case MACT determination depends on whether the permitting authority has submitted a 112(g) program certification to EPA. The purpose of the certification is to show that the permitting authority has a program through which they can implement 112(g) requirements. Permitting authorities now have until December 2000 to submit their certifications to EPA.

If the 112(g) program certification has been submitted to EPA,

- The permitting authority must give opportunity for public comment (through its Notice of MACT Approval or other procedure as outlined in program certification) on the MACT determination.
- The MACT determination may be placed either directly into the title V permit, or into a construction permit.
- If the MACT determination is not placed directly into the source's title V permit, through requirements into either a construction permit or a title V permit, the 112(g) determination must still be incorporated into the title V permit, either at initial permit issuance, or through a significant revision to the title V permit.

If the 112(g) program certification has not been submitted to EPA,

- The permitting authority may make the MACT determination, but must obtain EPA concurrence, OR
- The permitting authority may request that EPA do the MACT determination.

In all cases, EPA will have the opportunity to review the MACT determination.

Tips for Permit Review

If there are new or reconstructed HAP-emitting units (units constructed after June 29, 1998) at the facility you are reviewing, and there is no MACT standard yet promulgated for these units, consider whether the units have triggered 112(g):

- 112(g) applies to new major HAP sources (where the emissions from the new source alone are equal to or greater than 10 tons per year of any HAP or 25 tons per year of any combination of HAP).

Guidelines: Applicable Requirements: NSPS and NESHAP

- 112(g) also applies to reconstructed major sources, even if the net emissions increase is not in itself major. A unit is considered to be reconstructed if the cost of the project exceeds 50% of the cost of a comparable new unit. See the full definition of reconstruction in §63.41.
- Only the new or reconstructed units are subject to 112(g), not the entire facility.
- Netting is not allowed under section 112(g), but sources may avoid triggering 112(g) by limiting PTE below the 112(g) 10 tpy/25 tpy applicability levels.
- Specific exemptions from 112(g) are listed in §63.40.

To review a 112(g) determination:

- Guidance on new source MACT determinations can be found in the preamble to the 112(g) rule (61 FR 68384, December 27, 1996). There is no guidance document specifically for 112(g) for doing new source MACT determinations. However, guidance can be found in the Guidelines for MACT Proposal Determinations under Section 112(j), May 1994, EPA 453/R-94-026. The analysis for doing new source MACT determinations is the same regardless of whether it is done under the authority of section 112(d), (g), or (j). Case-by-case MACT cannot be less stringent than BACT.
- T-BACT determinations may be used for 112(g) purposes in California.

Delegation of Discretionary Authority Related to Air Toxics

Background:

Under the General Provisions (subpart A) of 40 CFR Part 63, the EPA Administrator has the authority to approve certain changes to, or make decisions under, specific General Provisions requirements (e.g., general emission standards, monitoring requirements, etc.). But does this same authority extend without question to the APCO or Director of a state or local air program when they are delegated the authority to implement Part 63? Below is a short table of the General Provisions that cannot be delegated to the state or local agency. Please refer to the July 10, 1998 memo from John Seitz in Appendix C for more information on which sections of the General Provisions can be delegated.

How this relates to permit review:

In the review of title V permits, be aware that permits may contain language that inappropriately allows APCO or Director the discretion to make important decisions related to Part 63. Check the delegation agreement to see if it allows such discretion (Note: even if the delegation does allow the discretion, check the July 10, 1998 memo to ensure the delegation is consistent with current policy). If the delegation is incorrect, notify the appropriate Region IX contact; and identify it in a comment letter to the District. If the delegation is silent on the particular section, notify the permitting authority in your comment letter that the discretion is not allowed.

Guidelines: Applicable Requirements: NSPS and NESHAP

MACT Authorities That **Can Not** Be Delegated

Section	Authority
Section 63.6(g)	Approval of Alternative Non-Opacity Emission Standards
Section 63.6(h)(9)	Approval of Alternative Opacity Standard
Sections 63.7(e)(2)(ii) and (f)	Approval of Major Alternatives to Test Methods (see Attachment 1 to full memo in Appendix C)
Section 63.8(f)	Approval of Major Alternatives to Monitoring (see Attachment 1 to full memo in Appendix C)
Section 63.10(f)	Waiver of Recordkeeping -- all

Source: Delegation of General Provisions memo dated July 10, 1998 from John Seitz to EPA Regional Offices.

The Following Information Appears in Appendix C:

- Delegation of General Provisions memo dated July 10, 1998 from John Seitz to EPA Regional Offices.
- December 3, 1998 memo to Region X from Thomas Curran, Director, Information Transfer and Program Integration Division, OAQPS, entitled, "Area Source Deferrals and Exemptions from Title V Permitting"
- Website Information
 - A. Applicability Determination Index
<http://134.67.104.12/cfdocs/adiwww/adiwww.html-ssi>
 - B. Index of MACT subparts and recent updates
http://www.epa.gov/ttn/uatw/2_4yrstds.html Two and four-year standards
http://www.epa.gov/ttn/uatw/7_10yrstds.htm Seven and ten-year standards
 - C. 112(g) Question and Answers (Q&As)
<http://www.epa.gov/ttn/uatw/112g/qanda12g.html>

Guidelines:

Applicable Requirements:

New Source Review Permit Terms and Conditions

September 9, 1999

DRAFT (Rev. 1)

III-25

Overview

EPA and permitting authorities use a host of terms to refer to the various types of permits that may be issued at the federal, state and local levels. In this section of the guidelines, we define the terms we will be using, and discuss the requirements for incorporation of the terms and conditions of these permits into the title V permit and other related considerations.

Definition of Terms

NSR permit – Throughout the following discussion when we say “NSR permit” we mean any permit issued pursuant to regulations approved or promulgated through rulemaking under title I including parts C or D of the Act, (including preconstruction permits that may be called “Authority to Construct,” “Installation Permit,” or “Permit to Construct.” For purposes of this discussion, the term “NSR” includes major nonattainment NSR programs, PSD programs, and 110(a)(2)(C) programs (minor NSR).

Permit to Operate – In this discussion, a “Permit to Operate” refers to a permit issued by a state or local District, pursuant to a locally adopted State or District operating permit program that may or may not be SIP-approved. A Permit to Operate regulates the on-going *operation* of either major or minor stationary sources of air pollution. Typically, a Permit to Operate is issued after the construction is completed in accordance with the NSR permit. (Do not confuse “permit to operate” with the CAA Title V “operating permits” program).

SIP-Approved Permit -- In this discussion, a “SIP-Approved Permit” is a permit issued pursuant to major or minor NSR or prevention of significant deterioration (PSD) permit programs approved into SIPs (or promulgated under 40 CFR § 52.21 in States implementing the federal PSD program via delegation from EPA), as well as State operating permits issued pursuant to the SIP such as federally-enforceable State operating permits (FESOPs) and some Permits to Operate. In many States, an NSR permit is subsequently converted to a Permit to Operate leaving the preconstruction permit void. In other States, there is not a separate construction permit (i.e., single permit system).

Why Review Permits for Terms and Conditions from SIP-Approved Permits?

Below are five very important reasons why the title V permit should be reviewed to determine whether terms and conditions from SIP-approved permits are properly incorporated into the Title V permit:

1. As defined in Part 70, and in all State Part 70 programs approved by EPA, terms and conditions issued pursuant to regulations approved or promulgated through rulemaking

Guidelines: Applicable Requirements – NSR Permit Terms and Conditions
pursuant to title I are applicable requirements that must be included in the title V permit.¹

2. All terms and conditions from SIP-approved permits should be transferred accurately to the title V permit.
3. Terms and conditions from SIP-approved permits should be properly identified as applicable requirements and cannot be identified as “non-federally enforceable,” or “state-only.”
4. EPA has the authority to review past NSR determinations and omissions during our review of the Title V permit. Were all past NSR determinations correctly made at the time the NSR permit was issued?
5. Title V permits must not contain language that would supersede or void the underlying applicable terms and conditions from SIP-approved permits.

Important! As described below, omission or improper incorporation of permit terms and conditions from SIP-approved permits involves several controversial issues, some of which are case specific. If, during your review, you find problems, discuss the issues with other staff and management.

What Information Do I Need Before I Begin My Review?

- Check to make sure the Permitting authorities provided previously issued NSR permits or current Permits to Operate in the Statement of Basis for the title V permit. If we issued any PSD permits to the source obtain the permit file and/or check SSTS database on Lotus Notes.
- Check to see if EPA Region 9 or the public provided comments in the past about any NSR applicability determinations or permitting decisions made during the NSR-phase of the permit. Again, check our files or SSTS for any past comment letters.

¹ If a state does not want a SIP provision or SIP-approved permit condition to be listed on the Federal side of the Title V permit, it must take appropriate steps in accordance with title I substantive and procedural requirements to delete the conditions from its SIP or SIP-approved permit.

Guidelines: Applicable Requirements – NSR Permit Terms and Conditions

The following is a list of questions to ask yourself when reviewing title V permits for NSR permit terms and conditions. Discussion on each of these questions follows.

- Does the Title V Permit Contain Terms and Conditions from SIP-Approved Permits?
 - Are Terms and Conditions from SIP-Approved Permits Accurately Transferred to the Title V Permit and Properly Included as Applicable Requirements?
 - Were Past NSR Determinations Correctly Made at the Time the NSR Permit was Issued or Revised?
 - Does the Title V Permit Contain any Language that Would Allow the Title V Permit to Void or Supersede Existing SIP-Approved Permits?
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Does the Title V Permit Contain Terms and Conditions from SIP-Approved Permits?

In general, title V permits will contain terms and conditions from SIP-approved permits because most title V sources have previously been issued NSR permits for construction of new or modified emission units. Such terms and conditions are applicable requirements and the origin of and authority for each condition should be identified in the title V permit. In general, check the conditions in the title V permit to see if SIP-approved permit numbers and/or rules are cited as the origin of and authority for the condition.

As part of a complete submittal, permitting authorities should include all ATC or current PTO permits (if applicable and not already provided in previous correspondence) before our 45-day review clock can begin (see CAPCOA Title V Attachment, Appendix B).

The following are title V sources may not have any terms and conditions from SIP-approved permits listed in the title V permit:

- An old source that performed all construction of emission units prior to federal CAA permitting requirements (pre-1970 source) would not originally have been required to obtain an NSR permit. If this is the case, also confirm that the source has not modified since its construction in a way that would trigger the requirement for an NSR permit. (Note: It is likely that the source will have a permit to operate even if NSR was never triggered.)
- A source operating in Indian Country with emissions below PSD thresholds (<250 tpy) but above Title V thresholds (>100 tpy).

Are Terms and Conditions from SIP-Approved Permits Accurately Transferred to the Title V Permit and Properly Included as Applicable Requirements?

This is a very important question to ask yourself during your review of the title V permit. First, the terms and conditions from the SIP-approved permit should be **accurately** transferred to the title V permit. Some permitting authorities may consider the transfer a good opportunity to “clean up” the SIP-approved permit (e.g., rewrite conditions, remove conditions, etc). When comparing the SIP-approved permit to the title V permit check for the following:

- Are all conditions from the NSR SIP-approved permit transferred to the title V permit?
- Have the conditions been re-written?
- Are the conditions in the title V permit enforceable as a practical matter? This is an issue regardless of whether the permitting authority has changed the SIP-approved permit.
- If terms and conditions from the SIP-approved permit have been removed, did the permitting authority follow the substantive and procedural requirements of the SIP-approved permit rule?

Second, Federal law requires all terms and conditions in a permit issued under any SIP-approved permit program to be federally enforceable (see 40 CFR §52.23 and letter dated May 20, 1999 from John Seitz to STAPPA/ALAPCO - Attachment G). This is a long-standing federal requirement that we recently reiterated in the referenced policy. The enactment of title V did not change the fact that all terms and conditions in SIP-approved permits are federally enforceable. If a State does not want a SIP provision or SIP-approved permit condition to be listed on the Federal side of a title V permit, it should take the appropriate steps in accordance with title I substantive and procedural requirements to delete those conditions from its SIP or SIP-approved permit.

Why is it Important to Review Title V Permits for Past NSR Determinations?

The title V permit for a source must assure compliance with all applicable requirements. If a NSR permit was not issued in the past, and should have been, then the source is not in compliance with the requirement to obtain a NSR permit as required in Title I of the CAA.

Were All Past NSR Determinations Correctly Made at the Time the NSR Permit was Issued or Revised?

Pursuant to EPA policy, the Agency generally will not object to the issuance of a title V permit due to concerns over BACT, LAER, or related determinations made long ago during a prior preconstruction permitting process. However, regarding recently issued NSR/PSD permits, note that EPA policy is to provide adverse comments concerning the substantive or procedural deficiencies of a preconstruction permit during the NSR/PSD permitting process. EPA may thereafter take corrective action, including objecting to the title V permit if its comments were not resolved by the State. Similarly, where the BACT/LAER determination is made during a concurrent or “merged” preconstruction permit and title V permit process, EPA may object to the title V permit due to an improper determination. Finally, the Agency may object to or reopen a title V permit in response to a public petition showing that title I preconstruction permitting requirements have not been met.

Moreover, where EPA believes that an emission unit has not gone through the proper preconstruction permitting process (and therefore one or more applicable requirements are not incorporated in the draft or proposed title V permit), EPA may object to the title V permit. The permitting authority may then resolve the issue either by demonstrating to EPA’s satisfaction that preconstruction permitting requirements were not applicable or by incorporating a schedule requiring the source to obtain a preconstruction permit.

Where an EPA Region is unable to obtain adequate information during its review period to support an objection, the permit may be issued with “placeholder” language stating that the permit shield does not attach to the emission units at issue. In such instances, the permitting office should also consider a referral to the enforcement office for further investigation. The placeholder language would say that while EPA is evaluating the applicability of the PSD/NSR program, a permit shield is not available with respect to applicability of PSD/NSR and that additional applicable requirements may apply should EPA’s evaluation show that PSD/NSR applies. If EPA determines that the source is not subject to any additional requirements, the permit can be reopened to provide a permit shield with respect to these requirements.

For more information on this policy refer to the May 20, 1999 letter to Robert Hodanbosi from John Seitz in Appendix G.

Watch Out!

Title V permits may contain **permit shields** for sources from underlying NSR SIP rules or the requirements to obtain a permit. The part 70 permit cannot shield a source from past noncompliance arising from previous applicability determinations (see § 70.6(f)(3)(ii)). Such noncompliance is also subject to enforcement. As described in the Permit Shield Section of these Guidelines, emission limits from permits can, of course, be shielded if a proper streamlining demonstration is provided that clearly shows how the permit incorporates the limit and assures compliance with the applicable permit limit. For more information on past NSR noncompliance issues in title V, refer to EPA's May 20, 1999 letter to STAPPA (NSR Lookback Section of Enclosure A) in which we clarify a commonly mis-interpreted section of White Paper I.

Does the Title V Permit Contain Any Language that Would Allow the Title V Permit to Void or Supersede Existing SIP-Approved Permits?

Title V permits may not supersede, void, replace, or otherwise eliminate the independent enforceability of terms and conditions in SIP-approved permits. In enacting title V, Congress did not amend title I of the Act and did not intend the title V permitting program to replace the title I permitting programs. SIP-approved permits must remain in effect because they are the legal mechanism through which underlying NSR requirements (from the Act, federal regulations and federally-approved SIP regulations) become applicable, and remain applicable, to individual sources.

Problems that would occur if Title V permits did supersede SIP-approved permits:

- Neither EPA nor the District could reopen title V permits if that permit failed to include all terms and conditions of SIP-approved permits.
- Neither EPA nor the District could make necessary corrections upon permit renewal if the SIP-approved permit was no longer in place.
- If the title V permit supersedes the source's SIP-approved permit and then subsequently expires, neither the superseded SIP-approved permit nor the expired title V permit would provide the legal authority to enforce the site-specific operational requirements and restrictions imposed upon the source pursuant to preconstruction review.

Guidelines: Applicable Requirements – NSR Permit Terms and Conditions

The fact that compliance with the title V permit may be “deemed compliance” with underlying applicable requirements, including applicable requirements contained in SIP-approved permits, indicates that those underlying requirements must remain in force and may not be superseded.

The following are examples of supersession language in title V permits:

- "These permit conditions supersede all conditions mentioned in earlier permits issued to the facility."
- “The permit conditions in this section will supersede all conditions mentioned in the existing District PTO for the air emission units at the facility.”
- “Upon issuance of the Title V permit, the underlying NSR permit shall expire.”

Guidelines:

Applicable Requirements:

Acid Rain

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III-35

What Are Acid Rain Permits?

Utilities and other facilities which combust fossil fuel and generate electricity for wholesale or retail sale may be subject to title IV acid rain program requirements, such as SO₂ and NO_x emission limitations and/or monitoring, recordkeeping, and reporting requirements. Acid rain sources subject to emission limitations must have an acid rain permit. The acid rain permit must be issued using the same procedures as a title V permit and must be included in the title V permit.

Section 408 of the CAA states that “The provisions of [title IV] shall be implemented...by permits issued to units subject to this title (and enforced) in accordance with the provisions of title V, as modified by [title IV].”

How Do I Review the Permit for Acid Rain Requirements?

First, determine if the source has any units subject to SO₂/NO_x regulations under the Acid Rain Program:

If the units are fossil-fired units that generate electricity for sale and fall into any of the following categories, refer to 40 CFR 72.6 for complete details on determining applicability and exemptions:

- The source is one of the old (pre-1990) large sources of SO₂ listed in Table 1, 2, or 3 of 40 CFR 73.10, or
- The source existed prior to 11/15/90 and has either increased to > 25 MW or added auxiliary firing since 11/15/90, or
- The source is a new (post 11/15/90) fossil fuel-fired combustion device.

Common **exemptions** to check for in 40 CFR 72.6 include: 1) pre-1990 simple combustion turbines, 2) cogeneration facilities, 3) independent power production facilities, and 4) solid waste incinerators.

If the source has units subject to regulation of SO₂/NO_x under the Acid Rain Program, make sure that the title V permit contains:

The following Acid Rain boilerplate language:

“Emissions from this source shall not exceed any allowances that the source lawfully holds under title IV of the Act or its regulations. [§70.6(a)(4)]”

Guidelines: Applicable Requirement: Acid Rain

“Where an applicable requirement of the Act is more stringent than an applicable requirement of title IV regulations, both provisions shall be incorporated into the permit and be enforceable by the Administrator. [70.6(a)(1)(ii)]”

An Acid Rain Permit: All sources subject to Acid Rain Regulations were required to have an Acid Rain Permit (issued by the local permitting authority or EPA’s Acid Rain Division) in place by at least January 1, 1999, and much earlier in certain cases. Thus, title V permits for all sources subject to Acid Rain should now include the Acid Rain Permit as part of the title V permit. When reviewing the Acid Rain Permit, check to make sure the permit contains each of these sections:

- Statement of Basis
- SO₂ allowances and NO_x requirements for each affected unit
- Comments, notes, and justifications
- Permit application (must be included or incorporated by reference)

Refer to Appendix C of these guidelines for a sample Acid Rain Permit. If the Acid Rain Permit does not follow the form of the sample permit in Appendix C of these guidelines, you should initiate a discussion with the permitting authority and EPA’s Acid Rain Division for further explanation.

If the Acid Rain Permit is Missing from the Title V Permit:

While permitting authorities may be aware of some facilities that are subject to the Acid Rain Program, it is very possible that facilities that should be subject have been overlooked. For example, facilities that once qualified for an exemption, such as cogeneration facilities, may lose their status as “exempt” if certain conditions regarding the facility change. Thus, the applicability criteria above should be checked for each permit reviewed. In case of any confusion regarding the applicability of the Acid Rain Regulations to a specific facility, EPA’s Acid Rain Division should be consulted for guidance.

If the source is subject to regulation under the Acid Rain Program and the Acid Rain Permit should have been issued by now according to Acid Rain Regulations (currently the case for all Acid Rain Permits), the title V permit must include the Acid Rain Permit. If you find the Acid Rain Permit is missing, first check with the permitting authority to see if the Acid Rain Permit has been issued. If so, the correction to the title V permit is simply to have the permitting authority add the Acid Rain Permit to the title V permit. Make sure that the permitting authority followed the public notice procedures under Part 70 for the Acid Rain portion of the permit, just as they would for all other parts of a title V permit. However, if the permitting authority indicates that the Acid Rain permit has not been issued yet but should have been, a compliance schedule for the title IV Acid Rain requirements must be added to the title V permit before EPA can approve the title V permit (see guidelines on compliance schedules).

Guidelines:

Applicable Requirements:

Other Applicable Requirements

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What Other Applicable Requirements Must Be Included?

The Part 70 definition of “applicable requirements” includes several other standards which must be addressed when reviewing a title V permit. The applicability and inclusion of many of these requirements is more straightforward than those already discussed in these guidelines. These “other applicable requirements” can be categorized as follows:

Standards that require “boilerplate” language in MANY title V permits: (see Part A below for boilerplate language)	Standards that only require permit language for a FEW types of sources: (see Part B below for applicability information)
<p>Stratospheric Ozone protection under CAA, Title VI</p> <p>Accident prevention requirements under CAA 112(r)(7)</p> <p>National Emission Standard (NESHAP) for Asbestos under 40 CFR Part 61, Subpart M</p>	<p>Requirements governing solid waste incineration under CAA 129</p> <p>Tank vessel requirements under CAA 183(f)</p> <p>Outer continental shelf source requirements under CAA 328</p> <p>For temporary sources, NAAQS, increment, and visibility standards under CAA, Part C of Title I</p>

40 CFR 70.2 gives a complete definition of “applicable requirements.”

When reviewing a permit for “other applicable requirements”:

- **Check for boilerplate language, listed in Part A below.** These standards will apply in many title V permits. Part A below describes how you figure out whether the boilerplate language should be included, and tells what the boilerplate language is.
- **Check if the source falls into any of the categories that requires additional permit conditions, listed in Part B below.** These standards only require permit language for the specific categories of sources to which the standards apply. Part B below describes which source category each standard applies to and gives general guidance on permit language to include if the standard is applicable.

PART A: What boilerplate language must be included in most or all permits?

For many sources, the following requirements apply or have the potential to apply over the permit term. Where requirements can be reasonably anticipated to apply over the permit term, EPA recommends that these requirements be included in the permit to avoid permit reopening at a later date.

1. Accident Prevention Requirements under CAA 112(r)(7)

Sources that handle, or use, more than a certain threshold quantity of any one of 200 listed substances/material are required to develop risk management plans (RMPs). Refer to 40 CFR 68.130 for a complete list of affected substances. More information can also be found at:

<http://www.epa.gov/swercepp/pubs/caa-faqs.html>

Applicability:	Boilerplate title V permit language:
CASE 1: When the source is already subject to Part 68 provisions, the following language should be included in the permit.	CASE 1 PERMIT LANGUAGE: “This stationary source, as defined in 40 C.F.R. section 68.3, is subject to part 68, the accidental release prevention regulations. This stationary source shall submit a risk management plan (RMP) by the date specified in section 68.10. This stationary source shall certify compliance with the requirements of part 68 as part of the annual compliance certification as required by 40 C.F.R. part 70 or 71.”
CASE 2: When the source could be subject to the rule in the future or wants flexibility to preclude permit reopening, the following language should be included in the permit.	CASE 2 PERMIT LANGUAGE: “Should this stationary source, as defined in 40 C.F.R. section 68.3, become subject to the accidental release prevention regulations in part 68, then the owner or operator shall submit a risk management plan (RMP) by the date specified in section 68.10 and shall certify compliance with the requirements of part 68 as part of the annual compliance certification as required by 40 C.F.R. part 70 or 71.”

2. Stratospheric Ozone protection under CAA, title VI

This program requires labelling, capture, recycling, and phase-out of certain compounds that have been determined to have the potential to react with and deplete stratospheric ozone.

Guidelines: Applicable Requirements: Other Applicable Requirements

Applicability:	Boilerplate title V permit language:
Anyone who owns an appliance containing a refrigerant classified as an ozone-depleting substance, or a source which falls under any of the other criteria listed in 40 CFR 82.150, is subject to Part 82, Subpart F (Recycling and Emissions Reduction). All of the following boilerplate language must be included in the title V permits of subject facilities.	<p>“Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices pursuant to 40 CFR §82.156.”</p> <p>“Equipment used during maintenance, service, repair, or disposal of appliances must meet the standards for recycling and recovery equipment in accordance with 40 CFR §82.158.”</p> <p>“Persons performing maintenance, service, repair or disposal of appliances must be certified by a certified technician pursuant to 40 CFR §82.161.”</p>

3.National Emission Standard (NESHAP) for Asbestos, 40 CFR 61, Subpart M

This standard regulates the handling of any asbestos containing material.

Applicability:	Boilerplate title V permit language:
Recommend All title V permits contain the following language.	“Permittee shall comply with the requirements of Sections 61.145 through 61.147 of the National Emission Standard for Asbestos for all demolition and renovation projects. [40 CFR Part 61, Subpart M]”

PART B: What other requirements must I evaluate for applicability?

Permit language is only required for the following standards for the specific categories of sources to which the standards apply. If the source falls into one of these categories, the permit must assure compliance with the limits or requirements of the standard. Thus, the permit must contain the requirements of the standard plus any additional monitoring, recordkeeping, reporting, and/or testing, as appropriate, to assure compliance.

1. Requirements governing solid waste incineration under CAA 129

Applicability: Under CAA 129, EPA has promulgated emissions standards and guidelines for incinerators that burn solid waste. These standards are contained within the New Source Performance Standards (NSPS, 40 CFR Part 60) both for medical waste incinerators (Subpart Ec) and municipal waste combustors (Subpart Eb). Refer to 60.50c and 60.50b, respectively, for specifics of the applicability of these regulations. Title V permits for sources subject to these regulations must assure compliance with the requirements of the standard (see guidelines section on NSPS).

2. Tank vessel requirements under CAA 183(f)

Applicability: This standard regulates the emissions of VOCs and any other air pollutant from loading and unloading of tank vessels. Refer to CAA 183(f) for specifics of applicability and requirements if the standard may be relevant to the source. Title V permits for sources subject to these regulations must assure compliance with the requirements of the standard.

3. Requirements of the Outer Continental Shelf Sources program under CAA 328

Applicability: If the standard may be relevant to the source, refer to 40 CFR 55.3 (Outer Continental Shelf Air Regulations) for applicability specifics requirements. Title V permits for sources subject to these regulations must assure compliance with the requirements of the standard.

4. For temporary sources, NAAQS, increment, and visibility standards under CAA, Part C of title I

Applicability: Permitting Authorities may issue a single permit authorizing emissions from similar operations at multiple temporary locations. Permits for such units shall include conditions that assure compliance with all CAA requirements including, but not limited to, ambient standards and compliance with applicable increment and visibility standards under part C. In addition, the permit must require the owner or operator to notify the permitting authority in advance of each change in location.